

**MAR 17 2006**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ANIETIE JAMES OKPON, aka Seal B,

Defendant - Appellant.

No. 03-50075

D.C. No. CR-01-00238-AHM-2

MEMORANDUM\* and ORDER

Appeal from the United States District Court  
for the Central District of California  
A. Howard Matz, District Judge, Presiding

Submitted March 8, 2006\*\*

Before: CANBY, BEEZER and KOZINSKI, Circuit Judges.

Anietie James Okpon appeals from the 78-month sentence imposed following his jury trial conviction for conspiracy, in violation of 18 U.S.C. § 371, loan fraud, in violation of 18 U.S.C. § 1014, mail fraud, in violation of 18 U.S.C.

---

\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

\*\* This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

§ 1341, and wire fraud, in violation of 18 U.S.C. § 1343. We have jurisdiction pursuant to 28 U.S.C. § 1291.

Okpon contends that the district court violated his Sixth Amendment rights when it ordered restitution. This claim is foreclosed by *United States v. Bussell*, 414 F.3d 1048, 1060 (9th Cir. 2005) (stating that district court orders of restitution are unaffected by *United States v. Booker*, 543 U.S. 220 (2005)). Accordingly, we affirm the district court's order of restitution.

Okpon was sentenced under the then-mandatory Sentencing Guidelines, and we cannot reliably determine from the record whether the sentence imposed would have been materially different had the district court known that the Guidelines were advisory. *See United States v. Ameline*, 409 F.3d 1073 (9th Cir. 2005) (en banc).

Okpon shall notify the court within 14 days of the filing date of this memorandum disposition if appellant wants to pursue an *Ameline* remand. *See id.* at 1084. If Okpon does not respond to this inquiry, the district court's sentence shall be affirmed.

**BRIEFING ORDERED.**